(3)

Supreme Court, U.S.
FILED
DEC 9 - 2004
OFFICE OF THE CLERK

No. 04-361

IN THE

SUPREME COURT OF THE UNITED STATES

ALICE CLISSURAS and PATRICIA CLISSURAS,

Plaintiffs-Appellants-
Petitioners,

v.

CITY UNIVERSITY OF NEW YORK,
TEACHERS' RETIREMENT SYSTEM OF THE
CITY OF NEW YORK,
PROFESSIONAL STAFF CONGRESS/CITY
UNIVERSITY OF NEW YORK,
PSC-CUNY WELFARE FUND;

ALL CAUSALLY RESPONSIBLE INDIVIDUALS OF
AFORESAID FOUR AGENCIES;
ALL POTENTIALLY RESPONSIBLE AGENCIES; and
ALL CAUSALLY RESPONSIBLE INDIVIDUALS OF
SAID POTENTIALLY RESPONSIBLE AGENCIES,

Defendants-Appellees-
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SECOND CIRCUIT COURT OF APPEALS

PETITION FOR REHEARING OF ORDER DENYING AND FOR DETERMINATION OF APPELLANTS' PETITION FOR WRIT OF CERTIORARI

ALICE CLISSURAS, pro se
Lead Petitioner
PATRICIA CLISSURAS, pro se
Petitioner
215 Adams Street
Brooklyn, NY 11201
(718)875-6171

REASONS FOR REHEARING, DETERMINING, AND VACATING ORDER DENYING PETITION FOR WRIT OF CERTIORARI

1. The Orders of the Southern District (3) are void due to, inter alia, failure of the Southern District to determine plaintiffs' Motions to Dismiss the Defendants for failure to respond to and defend against plaintiffs' prima facie Complaints and documentary evidence. (Petitioners' App. for Writ, A.24-52)

2. The Orders of the Second Circuit are void and should not be allowed to stand due to, inter alia, failure to determine plaintiffs' appeals and due to failure to address and correct the manifest errors of the Southern district. (App. for Writ, A.1-23)

3. The Order of this Court is void due to, inter alia, absence of determination of Petitioners' Writ of Certiorari

to the Second Circuit and absence of correction of manifest errors of Second Circuit. (A.1, A.2, and A.3, Appendix attached hereto.)

ALL PARTIES AND THEIR ATTORNEYS

ALICE CLISSURAS (AC) pro se
Plaintiff-Appellant, Petitioner
Lead Petitioner: J.D., No license
U.S.C.A., 2d Cir.: 03-7531
U.S.D.A., S.D.N.Y.: 02-cv-8130
215 Adams Street
Brooklyn, NY 11201
(718)875-6171

PATRICIA CLISSURAS (PC) pro se
Plaintiff-Appellant, Petitioner
Lead Petitioner: Alice Clissuras, by Power of Attorney
U.S.C.A., 2d Cir.: 03-7532
U.S.D.S., S.D.N.Y.: 02-cv-8130
215 Adams Street
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For CITY UNIVERSITY OF NEW YORK
Defendant-Appellee, Respondent
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New York, NY 10171
(212)416-6184

For TEACHERS' RETIREMENT SYSTEM OF THE CITY OF NEW YORK
Defendant-Appellee, Respondent
Norman Corenthal, Esq.
New York City Law Department
Corporation Counsel
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For PROFESSIONAL STAFF CONGRESS/
CITY UNIVERSITY OF NEW YORK
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(212)267-9020

For PSC-CUNY WELFARE FUND
Defendant-Appellee, Respondent
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*As of July 8, 2004 Docket

TABLE OF CONTENTS

	Page
REASONS FOR REHEARING, DETERMINING, AND VACATING ORDER DENYING PETITION FOR WRIT OF CERTIORARI	i
ALL PARTIES AND THEIR ATTORNEYS.	iii
TABLE OF CONTENTS.	v
TABLE OF AUTHORITIES	vi
REASONS FOR REHEARING. . . . . (Argument)	3
SUBSTANTIAL GROUNDS WITH SUBSEQUENT AND SUBSTANTIAL EFFECTS.	6

APPENDIX

CLERK'S LETTER, WRIT DENIED November 15, 2004.	A-1
CLERK'S WRIT ORDER, TRUE COPY. .	A-2
EXTRACTED COPY OF DOCKET	A-3
CERTIFICATION OF PETITIONERS: UNNUMBERED, FOLLOWS:	A-4

TABLE OF AUTHORITIES

Page

CONSTITUTIONAL PROVISIONS

U.S. Const. Amends. V, VII, XIV . 2

Const. of N.Y., Art.I-2§
Art.I-11, Art.V-§7. 3

CASES, STATUTES, REGULATIONS:
APPENDIX IN SUPPORT OF
APPELLANTS' PETITION FOR
WRIT OF CERTIORARI

By incorporation: vi, vii

IN THE

SUPREME COURT OF THE UNITED STATES

ALICE CLISSURAS, Docket No. 03-7531, v.
CITY UNIVERSITY OF NEW YORK, et al.

PATRICIA CLISSURAS, Docket No. 03-7532, v.
CITY UNIVERSITY OF NEW YORK, et al.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SECOND CIRCUIT COURT OF APPEALS

PETITION FOR REHEARING OF ORDER DENYING
AND FOR DETERMINATION OF APPELLANTS'
PETITION FOR WRIT OF CERTIORARI

TO THE HONORABLE, THE CHIEF JUSTICE and
ASSOCIATE JUSTICES OF THE SUPREME COURT
OF THE UNITED STATES:

Alice Clissuras (AC) and Patricia Clissuras (PC), petitioners, pro se, in this proceeding, respectfully petition the Court for rehearing, determining, and vacating of Order entered on November 15, 2004, denying Appellants' Petition for Writ of Certiorari to the United States Court of Appeals for the Second Circuit. (A.1, A.2, and A.3, attached hereto)

Petitioners make this request for reconsideration, as of right, on the

grounds that defendants, CUNY, Retirement System, Union, and Welfare Fund, have since the inception of plaintiffs' retirements improperly taken over $200,000 from each plaintiff's pension, have improperly taken plaintiff's health care entitlements and reduced them from comprehensive coverage to the lowest tier available, and have taken plaintiffs' state-professor-identity employment records and improperly converted them to city-teacher records. All of plaintiffs' property and entitlements were taken and continue to be taken by the fraudulent conversion of state to city identity, without due process, in violation of Amendments V, VII, and XIV, of the United States Constitution, for failures of equal protection of the laws, deprivation of due process, and right to trial. Similarly, the

the actions of the defendants have been and are in violation of the Constitution of New York, Art.I-§2 [Right to trial by jury]; Art.I-11 [Equal protection of laws.]; and Art.V-§7 [Retirement benefits vested.]:

> "(M)embership in any pension or retirement system of the state or of a civil division thereof shall be a contractual relationship, the benefits of which shall not be diminished or impaired."

The defendants' violations of the Constitutions and the Laws have continued nonstop for over 20 years.

REASONS FOR REHEARING, DETERMINING, AND VACATING ORDER DENYING PETITION FOR WRIT OF CERTIORARI

Petitioners request rehearing of the Order of the Court denying Petition for Writ for the following reasons:

(1) That plaintiffs' February 7, 2003 Southern District Motions to dismiss the defendants for failure to

answer and defend, remain undetermined, to present;

(2) That plaintiffs' appeals to the Second Circuit remain undetermined, to present;

(3) That the Courts overlooked defendants' Constitutional violations, identity theft, and fraud;

(4) That the violations have continued after the issuance of each and every Court Order, with impunity, and continue, to present; and

(5) That not one of the Orders issued by all of the Courts bears a signature.

As a result of not determining: plaintiffs' Motions to Southern District, appellants' Appeals and Motions to Second Circuit, and Petitioners' Petition for Writ of Certiorari, the Motions, Appeals, and Petition are all <u>open</u> and

must be determined before any dismissals can lawfully be made.

As a result of overlooking defendants' violations of the Constitutions and the Laws, all of the Orders are void, by manifest errors of the Courts; and

As a result of defendants' failure to answer and defend, the defendants are in default and have been since 20 days after the service of the Complaint in October of 2002, without joinder of issue and without the right to continue, in this action, by law.

Thus, the Orders issued, in this case, are unenforceable.

There can be no enforcement, by law, since there is no law which can be used to shield wrongdoers.

By dismissing the Complaints and closing the cases, the Courts allow the

defendants to continue taking plaintiffs' properties and entitlements with impunity and with grounds based solely on unproved affirmative defenses, which remain to be proved at trial, a Constitutional right of which plaintiffs' have been denied.

SUBSTANTIAL GROUNDS WITH SUBSEQUENT AND SUBSTANTIAL EFFECTS

Plaintiffs' instant case is a novel case, in legal process. It was converted from a plaintiffs' case into a defendants' case, from the outset.

By the October 15, 2002 Complaints, plaintiffs present a complete, prima-facie case for each of the three causes: pension, health care, and identity theft or conversion, with referenced evidence and supporting law which allows the fact-trier to rule in plaintiffs' favor on the facts at issue.

The defendants have not answered,

responded to, or argued the prima-facie facts and issues. The affirmative defenses which the defendants use to support dismissal of the Complaint are not related by the defendants to the facts and issues of the Complaint.

The defendants have not responded to the taking of the pensions, health care and identities; and defendants have not argued any dispositive defenses.

The Southern District argued six affirmative defenses on behalf of the defendants and did not reach any findings of fact or law, as to plaintiffs' Motion to Dismiss defendants for failure to respond.

As a result, the Southern District did not determine plaintiffs' Motion, which remains open, to present; and the Court dismissed the Complaints

and closed the cases as against CUNY and the "remaining" defendants, "for the reasons stated above," which presumably is a reference to the six affirmative defenses argued by the District Court.

The failure to determine plaintiffs' Motion to Dismiss resulted in substancial manifest District Court errors. The Complaint is the case, not the defenses. There must be an answer to the complaint, which may be in the form of a pleading or a motion. The defendants did not answer and used series of defenses to conceal the lack of answer. By not answering the prima-facie Complaints, the defendants admitted all and are subject to immediate dismissal for judgment by default.

The District Court errors are sanctionable and at the least should have been corrected by the Second

Circuit. However, the Second Circuit did not determine plaintiffs' Appeal, did not rule on equal protection, due process, and right to trial, and did not rule on the prima-facie Complaints. Instead, the Circuit Court affirmed the judgment of the District Court, with its manifest errors.

Respectfully, this Court did not determine Petitioners' request for Writ of Certiorari, did not correct the errors of the Circuit and District Courts, and did not rule on the prima-facie Complaints, which if not opposed are admitted.

The total omission of response in this case is grounds for Judgment by Default for Plaintiffs and sanctions for the omission of response.

During the two years of the life of this case, the Courts have allowed the

the defendants to take $20,000, plus, from the pension of each plaintiff, to take complete control improperly of plaintiffs' health care, and to take plaintiffs' identities to more venues.

Lest any one think that plaintiffs are repetitious in argument, in order for reargument to be sanctionable, a **decided** matter with specific evidentiary support must be identified. In this case plaintiffs are seeking decisions.

Lest any one think that plaintiffs are causing delays, look to those who have not answered for over 20 years, who have abused plaintiffs for over 20 years; and who have interfered with our lives and continue to do so nonstop.

Plaintiffs respectfully request grant of the petition for writ and request a well deserved and well earned

judgment against defendants by default.

Respectfully submitted,

ALICE CLISSURAS
Lead Petitioner, pro se

PATRICIA CLISSURAS
Petitioner, pro se

215 Adams Street
Brooklyn, NY 11201
(718)875-6171

SUPREME COURT of the UNITED STATES

OFFICE of the CLERK

WASHINGTON, DC 20543-0001

William K. Suter
Clerk of the Court
(202)479-3011

November 15, 2004

Ms. Alice Clissuras
215 Adams Street
Brooklyn, NY 11201

Re: Alice Clissuras and
Patricia Clissuras
v. City University of
New York, et al. No.04-361

Dear Ms. Clissuras:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

/S/

William K. Suter,
Clerk

SUPREME COURT of the UNITED STATES

No. 04-361

Alice Clissuras and Patricia Clissuras
Petitioners

v.

City University of New York, et al.

ON PETITION FOR A WRIT OF CERTIORARI to the United States Court of Appeals for the Second Circuit, No.03-7531, 03-7532.

ON CONSIDERATION of the petition for a writ of certiorari herein to the United States Court of Appeals for Second Circuit.

IT IS ORDERED by this Court that the said petition is denied.

November 15, 2004

A true copy WILLIAM K. SUTER
Test:
Clerk of the Supreme Court of the United States
By /S/
Deputy

No. 04-361 CFX

Title:	Alice Clissuras and Patricia Clissuras, Petitioners v. City University of New York, et al.
Docketed:	September 14, 2004
Lower Ct:	United States Court of Appeals for the Second Circuit
Case Nos.:	(03-7531,03-7532)
Decision Date:	February 3, 2004
Rehearing Denied:	May 14,2004
Analyst:	Blalock

---Date---	----Proceedings and Orders-----
Aug 12 2004	Petition for a writ of certiorari filed. (Response due October 14, 2004)
Aug 12 2004	Appendix of Alice Clissuras and Patricia Clissuras filed.
Sep 23	Waiver of right of respondent Teachers' Retirement System of the City of New York to respond filed.
Sep 29 2004	Waiver of right of respondent Professional Staff Congress/City University of New York Weflare (sic.)fund to respond filed.
Oct 27 2004	DISTRIBUTED for conference of November 12, 2004 (Page 2)
Nov 15 2004	Petition DENIED.

--Name----------Address-------Phone----

Attorneys for Petitioner:

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Party name: Alice Clissuras and
Patricia Clissuras

Attorneys for Respondent:

Kristin M. Helmers NYC Law Department
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Party name:Teachers' Retirement System
of the City New York

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New York, NY 10019
(212)765-2100

Party name:Professional Staff Congress/
City University of New York
Welfare fund

SUPREME COURT OF THE UNITED STATES

No. 04-361

Alice Clissuras and Patricia Clissuras
Petitioners

v.

City University of New York, et al.
Respondents.

CERTIFICATION OF PETITIONERS

Petitioners, Alice Clissuras pro se and Patricia Clissuras pro se, certify that the Petition for Rehearing to which this Certification is bound is restricted to the grounds specified in Supreme Court Rule 44 and that it is presented in good faith without any intent of delay.

Petitioners seek determination of the issues. Any delays that occur can be attributed to those who do not respond.

ALICE CLISSURAS
Petitionr pro se

PATRICIA CLISSURAS
Petitioner pro se